

Agenda Item	
A-1	Wishing to be heard was Conrad Schulz Fincke, 4102 Fifth Place N.W. Mr. Fincke spoke in opposition to the \$3.00 fee per month Stormwater Fee. He said that the fees are too high. Mr. Fincke said that after businesses and other agencies in town pass their costs of stormwater unto the citizens, each household will pay approximately \$109 per month.
B-1	President John Hunziker called the meeting to order at 7:00 P.M. with the following members present: Councilmembers Dennis Hanson, Marcia Marcoux, Jean McConnell, Sandra Means, Bob Nowicki. Absent: Walter Stobaugh. Also present Mayor Ardell F. Brede.
C-1	Nelrae Succio, District Engineer for MnDot, presented Mayor Brede, on behalf of the City of Rochester, and Rochester City Lines awards for being the recipients of the 2003 Minnesota Public Transit System of the Year Award given for outstanding fiscal constraints and economic uncertainty over the past few years. She noted that ridership has grown 49 percent over the past seven years and the low cost that the service provides.
D-1-23	Councilmembers Hanson moved, Marcoux seconded, to approve the following consent agenda items.
D-1	Approved the minutes of the September 3, 15, and 29, 2003, council meetings.
D-2	See at end of D Items.
D-3	Adopted Resolution No. 512-03 approving the City's participation in the State BioScience Zone Economic Development Program for the sites identified with local tax exemptions to be determined on a case-by-case basis.
D-4	See at end of D Items.
D-5	Approved the transfer of the On-Sale (Exclusive) Liquor License for KPC, Inc. DBA Kathy's Pub located at 307 South Broadway to Murphy & Teal, Inc. DBA Kathy's Pub effective November 1, 2003.
D-6	Adopted Resolution No. 514-03 authorizing an amendment to the software license with JD Edwards, Inc. to include the Technology Foundation Upgrade in the amount of \$35,950 plus applicable taxes.
D-7	Approved Accounts Payable in the amount of \$7,004,583.55 and Investment Purchases of \$14,023,199.16.
D-8	Accepted the Target Stores Grant in the amount of \$500 for the support of digital camera equipment for crime scene investigations.
D-9	See at end of D Items.
D-10	See at end of D Items.

Agenda Item	
D-11	See at end of D Items.
D-12	Adopted Resolution No. 515-03 awarding the contract for Project No. M2-40 (J7710) "Trunkline Sanitary Sewer and Watermain Extension to Serve Portions of Section 20 of Cascade Township, Sewer Service Area 28E" to S.L. Contracting at a cost of \$92,382.00.
D-13	<p>Adopted Resolution No. 516-03 adding portions of 55<sup>th</sup> Street N.W. and a future street segment along 41<sup>st</sup> Avenue N.W. to the City's Municipal State Aid System as follows:</p> <ul style="list-style-type: none"> <li>a. 55<sup>th</sup> Street N.W. from CSAH 22 West to 60<sup>th</sup> Avenue N.W. then south along 60<sup>th</sup> Avenue N.W. to CSAH 4 (2.71 miles)</li> <li>b. 41<sup>st</sup> Avenue N.W. from 55<sup>th</sup> Street N.W. south to CSAH 22 (0.18 miles)</li> </ul>
D-14	Adopted Resolution No. 517-03 approving Change Order #2 in the amount of \$14,700 or \$2,450 per bus with Gillig Corporation for the purchase of six buses, units 230 through 235.
D-15	See at end of D Items.
D-16	Adopted Resolution No. 518-03 authorizing execution of the revocable permit with RCS Properties (Rochester Cheese) for Lot 3, Block 1, Cascade Industrial Park for the placement of sign and landscaping within the right-of-way abutting the easement along TH14 frontage road.
D-17	Adopted Resolution No. 519-03 accepting voluntary participation by Ryan Electric Building and Zeigler, Inc. in the City's Regional Storm Water Management Plan.
D-18	Adopted Resolution No. 520-03 approving the City/Owner Contract with Michael G. Ryan & Kathie S. Ryan and Fraser Construction, Inc. for Project No. J-5106 "Watermain & Hydrant to Serve the Ryan Electric Property".
D-19	Adopted Resolution No. 521-03 approving the City/Owner Contract with Exemplar, Inc. Money Purchase Pension Plan, a Minnesota Trust and S.J. Louis Construction, Inc. for Project No. J-5061 "Basic Construction in Stonebridge".
D-20	Adopted Resolution No. 522-03 approving the Settlement Agreement for the easement on the Meadow Lakes Golf Property for public utilities to serve the Fairway Ridge Senior Housing Development and others.
D-21	<p>Adopted Resolution No. 523-03 amending the <u>Comprehensive Parking and Traffic Resolutions Book</u> as follows:</p> <p style="padding-left: 40px;">Amend Section I Zone J Paragraph 10.5 adding one 10-hour metered space on the north side of the 10 block of 2<sup>nd</sup> Street NE (Space #17-30)</p> <p style="padding-left: 40px;">Amend Section B "No Parking Zones" adding Paragraph 44.1 to include the south side of the 10 block of 2<sup>nd</sup> Street N.E. from the Zumbro River west approximately 50 feet.</p>

Agenda Item	
	<p>Amend Section B "No Parking Zones" renumbering Paragraph 44 (a parking restriction on 2<sup>nd</sup> Street N.E. west of 2<sup>nd</sup> Avenue N.E.) to 44.2</p> <p>Amend Section I Zone G Paragraph 17 deleting a 3-hour meter space on the south side of the 400 block of 3<sup>rd</sup> Street S.W. (Space #95-81)</p> <p>Amend Section B "No Parking Zones" Paragraph 80.5 "to expand the no parking on the south side of the 400 block of 3<sup>rd</sup> Street S.W. from 50 to 75" west of 4<sup>th</sup> Avenue S.W. Monday through Fridays 6:00 am – 6:00 pm (Space #95-81)</p>
D-22	Adopted Resolution No. 524-03 approving the execution of the Pine Ridge Estate Development Agreement with Dennis Peterson.
D-23	<p>Adopted the following Public Utility Resolutions:</p> <p>Resolution No. 525-03 approving Change Order #1 with Siemens Westinghouse for professional services for tilting pad-bearing modification to Cascade Creek Unit in the amount of \$182,148.00.</p> <p>Resolution No. 526-03 approving an addendum to the Participation Sales Agreement with Minnesota Municipal Power Agency to execute the addition of Article IX Coal Inventory.</p> <p>Resolution No. 527-03 proclaiming October 5-11, 2003, as Public Power Week.</p>
D-24	Adopted Resolution No. 528-03 approving the execution of the Settlement Agreement for the right of way acquisition of 41 <sup>st</sup> street with Shefelbines (J-7710).
D-25	<p>Adopted Resolution No. 529-03 approving the increase in driveway width for the shared driveway for the Becher Property, Lot 1, Cordul Commercial Park from the required 32 feet to 40 feet.</p> <p>Ayes (6), Nays (0). Motion carried.</p>
D-2	<p>Mayor Brede asked that the Council approve the appointment of Susan Parker to the Rochester Public Utility Board. Mayor Brede said that Ms. Parker will be an outstanding individual on the Board due to her previous and current experience with environmental issues.</p> <p>Councilmembers McConnell moved, Means seconded, to approve the appointment of Susan Parker to the Rochester Public Utility Board to fill the unexpired term of Paul Bourgeois running to January 2005. Ayes (6), Nays (0). Motion carried.</p>
D-4	<p>Councilmember Hanson asked for clarification on the October 16 and 17 activities of Local 21 under the Sound Amplification Permit and Miscellaneous Activities categories. City Clerk Judy Scherr explained that the October 16 activity is not a parade and rally for Local 21, as previously indicated. Information received earlier in the day indicated that AFSCME 6 will be holding a march on October 16 from 3:00 to 4:30 P.M. (adjacent to Mayo Clinic buildings) and a rally at 4:30 P.M.(at the Peace Plaza) for health care issues on October 16. Local 21 has asked to have 1<sup>st</sup></p>

Agenda  
Item

Avenue S.W. between 1<sup>st</sup> Street and Center Street closed from 11:45 AM to 12:45 PM on October 17 for a rally in front of Victoria's Restaurant.

Councilmembers McConnell moved, Nowicki seconded, to approve the October 16 AFSCME 6 march and rally. Ayes (6), Nays (0). Motion carried.

Sound Amplification Permit

ACFSME 6 – march – October 16, 2003 – 3:00 to 4:30 PM

ACFSME 6 – Rally after march at Peace Plaza – October 16, 2003 - 4:30

PM

Miscellaneous Activities

Buddhist Support Society, Inc. – Parade – October 19, 2003 – 1:00 to 2:30

PM

ACFSME 6– march – October 16, 2003 – 3:00 to 4:30 PM

ACFSME 6 – Rally after march at Peace Plaza – October 16, 2003 – 4:30

PM

Sgt. Bob Schei of the Rochester Police Department was asked to explain if the events would impact emergency or traffic routes. He indicated that the march and rally for AFSCME 6 would be on the sidewalk and in the Peace Plaza and would cause no undue concerns for traffic or safety. He indicated that First Avenue SW has never been closed entirely, even for the President of the United States' visit, but that, in the past, one-half of the street has been closed for sidewalk sales.

Dave Blanchard, President of Local 21, said that they would be willing to work to modify their request. When asked if closing of one-half of the street would be acceptable, he indicated they would be agreeable to partial closure.

Sgt. Schei then indicated that traffic cones could be placed allowing for two full lanes of traffic on 1<sup>st</sup> Avenue S.W. as there was no parking allowed on either side of the street at the present time. He said that the Chief of Police had told Local 21 that a permit from the Council would be needed to close the street. Sgt. Schei also indicated that it would be possible to have people to assist with traffic at the scheduled time.

Councilmembers Hanson moved, Means seconded, to allow Local 21 to hold a rally on October 17 closing one-half of the street on the west side from 1<sup>st</sup> Street S.W. to Center Street S.W. from 11:45 A.M. to 12:45 P.M. and to approve the remainder of the D-4 items. Ayes (6), Nays (0). Motion carried.

Gambling – Temporary

Honors Choirs of Southeast Minnesota – raffle – Holy Spirit Catholic Church  
- November 22, 2003

House Moving

Advance Building Movers, Inc. – House from 837 Fourth Avenue SE to  
Maple Valley Road SW

Agenda Item	
	<p><u>Signs</u> All-Brite Sign, Rogers, Minnesota</p> <p><u>Sound Amplification Permit</u> Local 21 – Rally in Front of Victoria's Restaurant on 1<sup>st</sup> Avenue SW – October 17, 2003 – 11:45 AM to 12:45 PM</p> <p><u>Miscellaneous Activities</u> Local 21 – Rally In Front of Victoria's Restaurant – 11:45 AM to 12:45 PM</p>
D-9	<p>Councilmember Nowicki asked where the proceeds from sales in the concession trailer would go. Staff will follow up with the Police Department and return information to the Council.</p> <p>Councilmembers Nowicki moved, Marcoux seconded, to adopt Resolution No. 530-03 approving co-ownership of a concession trailer co-owned by the Rochester Police Department Crime Prevention Unit and the Elks Lodge #1091 for a cost to the City of \$2,500. Ayes (6), Nays (0). Motion carried.</p>
D-10	<p>Councilmember Nowicki commended Barbara Huberty from the Public Works Department and other city staff for the outstanding job in working with the community and in the drafting of the manual.</p> <p>Councilmembers Nowicki moved, Means seconded, to adopt Resolution No. 531-03 approving the <u>Storm Water Utility Fee Credit Manual</u>. Ayes (6), Nays (0). Motion carried.</p>
D-11	<p>Councilmember Nowicki asked about the joint bridge demolition over TH52. He questioned the demolition about both demolitions on the same weekend; the inconvenience to the residents in the area and the traffic impacts.</p> <p>Richard Freese, Public Works Director, said that a copy of the Request for Council Action was sent to the contractor and they did not indicate that both bridges could not be done at the same time.</p> <p>Councilmembers McConnell moved, Marcoux seconded, to adopt Resolution No. 532-03 approving the demolition of the 19<sup>th</sup> Street N.W., 2<sup>nd</sup> Street S.W. and 6<sup>th</sup> Street S.W. bridges as follows:</p> <ol style="list-style-type: none"><li>1. Grant a Noise Variance for Fridays from 10:00 PM to 12:00 AM.</li><li>2. Grant a Noise Variance for Saturdays from 12:00 AM to 7:00 AM and from 10:00 PM to 12:00 AM.</li><li>3. Grant a Noise Variance for Sundays from 12:00 AM to 12:00 PM and from 10:00 PM to 12:00 AM.</li><li>4. Grant a Noise Variance for Mondays from 12:00 AM to 7:00 AM.</li><li>5. Require at Zumbro River Constructors distribute individual notices to property owners within 1000 feet of the bridge demolition work area and provide daily notices to the public through radio, television and print media for a period of not less than 7 days in advance of the scheduled bridge</li></ol>

RECORD OF OFFICIAL PROCEEDINGS OF THE COMMON COUNCIL  
CITY OF ROCHESTER, MINNESOTA  
Regular Meeting No. 24 – October 6, 2003

6894

Agenda Item	
	<p>demolition work and through the weekend period during which the bridge demolition occurs.</p> <p>6. Require that Zumbro River Constructors complete the demolition of the 2<sup>nd</sup> Street S.W. and 6<sup>th</sup> Street S.W. bridges on the same weekend to reduce the inconvenience to the residents in that area and the traffic impacts.</p> <p>Ayes (6), Nays (0). Motion carried.</p>
D-15	<p>Councilmember Nowicki asked if the maintenance fees on roads could not be renegotiated with MnDot. It was his understanding that we are not able to maintain the state roads for what they reimburse the city. Richard Freese stated that MnDot pays a certain rate for routine maintenance to cities in a certain area.</p> <p>Councilmembers Hanson moved, Means seconded, to adopt Resolution No. 533-03 authorizing a Routine Maintenance Agreement with MnDot for the section of TH63 from 6<sup>th</sup> Street South to 13<sup>th</sup> Street North for the period of July 1, 2003 to June 30, 2005. Ayes (5), Nays (1). Motion carried. Councilmember Nowicki voted nay.</p>
E-1	<p>A Continued Hearing on Land Use Plan Amendment Petition #03-04 by Morris Memorial and Allen Koenig to amend Land Use Plan from Low Density Residential to Industrial on property located along the west side of TH63, east of East River Road NE and north of 41<sup>st</sup> Street NE.</p> <p>Wishing to be heard was Ken Boyer, Civil Engineering Services, Inc., 5300 TH63 South, representing the owners. He spoke to all three project. Mr. Boyer indicated that condition #9 on Item E-3 had been eliminated. All other conditions for the three items were in agreement with the owners.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Hanson moved, Nowicki seconded, to adopt Resolution No. 534-03 approving Land Use Plan Amendment Petition #03-04 by Morris Memorial and Allen Koenig and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (6), Nays (0). Motion carried.</p>
E-2	<p>A Continued Hearing on Zoning District Amendment #03-09 by Morris Memorial and Allen Koenig to rezone from I to M-1 on property located along the west side of TH63, east of East River Road NE and north of 41<sup>st</sup> Street NE.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Marcoux moved, Nowicki seconded, to approve Zoning District Amendment #03-09 by Morris Memorial and Allen Koenig and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (6), Nays (0). Motion carried.</p>
E-3	<p>A Continued Hearing on General Development Plan #206 to be known as Morris Meadows by Morris Memorial LLC and Allen Koenig located along the west side of TH63, east of East River Road NE and north of 41<sup>st</sup> Street NE.</p>

Agenda Item	
	<p>Wishing to be heard was Ken Boyer, Civil Engineering Services, Inc., 5300 TH63 South, representing the owners. He explained that 20 percent of the property has already been developed as Midwest Transportation done prior to annexation. The remainder of the property, 25 to 30 acres, will be developed in similar-type businesses. The property is mixed commercial/industrial.</p> <p>Phil Wheeler, Planning Director, answered a concern of Councilmember McConnell's as to whether or not a foundry type of business could be put in the area. He said that the Zoning Ordinance would not allow for any heavy industrial uses such as foundries.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Hanson moved, Marcoux seconded, to approve General Development Plan #206 to be known as Morris Meadows by Morris Memorial LLC and Allen Koenig with seven conditions and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (6), Nays (0). Motion carried.</p>
E-4	<p>A Continued Hearing on Final Plat #03-28 by GAC Theaters, Inc. to be known as Chateau Second Replat located along the north side of East Circle Drive NE, east of TH63.</p> <p>The applicant requested that this item be continued to the November 3, 2003, meeting.</p> <p>No one wished to be heard at this time.</p> <p>Councilmembers Hanson moved, Marcoux seconded, to continue to November 3, 2003, the Continued Hearing on Final Plat #03-28 by GAC Theaters, Inc. to be known as Chateau Second Replat. Ayes (6), Nays (0). Motion carried.</p>
E-5	<p>A Continued Hearing on Final Plat #03-31 by Arcon Development, Inc. to be known as Crimson Ridge Second Subdivision located along the west side of 18<sup>th</sup> Avenue NW and north of the volunteers of America Development.</p> <p>The Planning Department asked that the hearing be continued to October 20, 2003, to allow them time to review a revised final plat received as of this date.</p> <p>No one wished to be heard at this time.</p> <p>Councilmembers Nowicki moved, McConnell seconded, to continue the Continued Hearing on Final Plat #03-31 by Arcon Development, Inc. to be known as Crimson Ridge Second Subdivision to October 20, 2003. Ayes (6), Nays (0). Motion carried.</p>
E-6	<p>A Continued Hearing on Proposed Special District #14 to be known as Pebble Creek by Western Walls, Inc. located along the west side of 60<sup>th</sup> Ave. NW, north of Valleyhigh Road NW and south of 55<sup>th</sup> Street NW.</p>

Agenda  
Item

Wishing to be heard was Andy Masterpole, McGhie & Betts, on behalf of the applicant, Western Walls. Mr. Masterpole said that the proposed special district will be approximately 400 acres of land consisting of primarily single-family homes with differentiating housing styles, a pedestrian-friendly environment in commercial and residential areas, open spaces, and connecting pedestrian ways and streets. Mr. Masterpole stated that there will be four major roads around the perimeter of the special district. He presented a new plan of proposed street right-of-ways that have been worked out with the Planning and Public Works Departments. Roads within the special district will be narrower with parking on only one side in the low-density areas and parking on both sides in the higher residential density areas. A natural stormwater management system is being developed tied into the walking paths and soak in rather than letting it run to a series of storage ponds.

Wishing to be heard was Chuck DeWitz, 604 11<sup>th</sup> Avenue S.W. He noted agreement with all conditions except condition #4 dealing with the maintenance and construction of the trail system.

Richard Freese, Public Works Department, noted that issues related to the trail system would be addressed in the development agreement. The actual location of the trails and what areas would have trails are to be worked out in the process. The trails through a portion of the environmental corridor would be public. The maintenance road would be in the same general area for easier access to maintain but the actual materials for the trail are yet to be worked out. If the trail is blacktopped, it would be City built.

Wishing to be heard was Terry Behrens, 6429 Valleyhigh Road N.W. Mr. Behrens was concerned about condition #6 and the controlled access to street intersections. He asked if it would apply to him as well. Mr. Behrens lives in an area not included in the special district abutting Valleyhigh Road. He said that his access is onto Valleyhigh Road.

Phil Wheeler, Planning Director, responded that requirements of the special district do not include his property.

Wishing to be heard was Shawn Allen, 609 Seventh Avenue S.W., Director of First Homes. He noted their involvement with the special district in some aspects of the development such as design of the homes, trees, and some of the garage prominence issues. First Homes is in support of the development.

Wishing to be heard was Joan DeWitz, 604 11<sup>th</sup> Avenue N.W. Ms. DeWitz responded to a question from Mayor Brede that there would be approximately 2200 living units; 950 single-family and the remainder multi-family.

Having no one further wishing to be heard, President Hunziker closed the hearing.

Councilmembers Hanson moved, Nowicki seconded, to approve Proposed Special District #14 to be known as Pebble Creek by Western Walls, Inc. with eight conditions and instructed the City Attorney to prepare the required ordinance for adoption.



Agenda Item	
E-7	<p>A Continued Hearing on General Development Plan #209 to be known as Pebble Creek by Western Walls, Inc. located along the west side of 60<sup>th</sup> Ave. NW, north of Valleyhigh Road NW and south of 55<sup>th</sup> Street NW.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>President Hunziker thanked the DeWitz family, Andy Masterpole and City staff for all their hard work on the proposed development.</p> <p>Councilmembers Hanson moved, Nowicki seconded, to approve General Development Plan #209 to be known as Pebble Creek by Western Walls, Inc. with eight conditions and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (6), Nays (0). Motion carried.</p> <p>Phil Wheeler, Planning Director, noted that the Council had received a draft copy of the Development Agreement and asked that the Agreement be approved at this time.</p> <p>Councilmembers Hanson moved, McConnell seconded, to approve the Development Agreement for the Pebble Creek Special District Development. Ayes (6), Nays (0). Motion carried.</p>
E-8	<p>A Hearing on Zoning District Amendment #03-15 by Melinda T. Dively-White &amp; John White to rezone from M-1 to R-1 on property located along the south side of Whynaucht Court SE.</p> <p>Wishing to be heard was Melinda Dively-White, 2904 Whynaucht Court S.E. She explained that while going through the process of buying the house, it was rezoned unbeknown to them. When trying to refinance the property, they found out the property had been rezoned commercial. If something happened to the house, it would not be possible to rebuild because of the zoning. They would also be unable to sell the adjoining property. The neighborhood surrounding them is composed of mixed single-family houses and commercial.</p> <p>Phil Wheeler, Planning Director, said that the rezoning was a part of the orderly annexation agreement with Marion Township. The land use plan showed the property as industrial. Areas east of Broadway and west of Third Avenue, in the southeast area, have a high mixture of light commercial and residential uses. A policy in the Land Use Plan allows for an orderly transition of uses in this type of setting. The policy could apply in this instance.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Means moved, McConnell seconded, to approve Zoning District Amendment #03-15 by Melinda T. Dively-White &amp; John White and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (6), Nays (0). Motion carried.</p>

Agenda  
Item

E-9

A Hearing on Type III, Phase II Conditional Use Permit Request #03-46 by Franklin Kottschade for excavation permit of a substantial land alteration and quarry operation on property located south of 40<sup>th</sup> Street SW and west of TH63.

Wishing to be heard was Michele Jackson Caron, RLK Kuusisto, Ltd., Minnetonka, Minnesota, representing the developer, Frank Kottschade. She noted that the conditions of 1-6 and 9 are acceptable as written. They requested that the wording of condition #10 be changed to address the developer's concerns about the quantity of trees required by code similar to the way that condition #9 addressed his concerns regarding the security fencing required. She asked that the wording of the last sentence in condition #10 read: "The plantings shall consist of 16 planting units per acre including trees, shrubs and ground cover". This wording would allow the tree units for the Willow Creek Commons project to be same as similar projects such as Rochester Marketplace which has 5.2 trees per acre versus 16 trees per acre for this project. In regard to conditions #7 and #8, the applicant will grant easements for the relocation of the sewer and water lines, however, they believe that the easements should not be tied to the conditional use permit process but instead should be a part of the development agreement process.

Brent Svenby, Planning Department, noted that the applicant had asked the Planning Commission for a variance from Section 62.1107.2) e) 1 & 2 for the plantings. Market Place did not have a substantial land alteration permit so was not required to have as many plantings.

Having no one further wishing to be heard, President Hunziker closed the hearing.

Councilmembers Hanson moved, Nowicki seconded, to adopt Resolution No. 535-03 amending condition #7 to read: "...with the approval of the Willow Commons Development Agreement and prior to the owner placing any fill or excavating any materials within the proposed permanent and temporary easements, but in no case later than October 6, 2004, to accommodate the...", amending condition #8 to read: "...for the watermain relocation concurrent with the approval of the Willow Commons Development Agreement and prior to the owner placing any fill or excavating any materials within the proposed permanent and temporary easements, but in no case later than October 6, 2004.", amending condition #10 to read: "...Section 62.1107.2) e) 1 & 2 unless the Council approves a variance to that section".

The changes in conditions #7, #8, and #10 were agreeable to the applicant.

Ayes (6), Nays (0). Motion carried.

E-10

A Hearing on Final Plat #99-24 by Franklin Kottschade to be known as Essex Estates 5<sup>th</sup> Subdivision located east of Cornwall Drive NW and north of Real Life Cooperative of Rochester and Aldrich Memorial Nursery School, Inc.

The applicant has requested that the hearing be continued to October 20, 2003 and agreed to waive the 60-day rule.

Agenda Item	
	<p>No one wished to be heard at this time.</p> <p>Councilmembers Marcoux moved, McConnell seconded, to continued to October 20, 2003, the Hearing on Final Plat #99-24 by Franklin Kottschade to be known as Essex Estates 5<sup>th</sup> Subdivision. Ayes (6), Nays (0). Motion carried.</p>
E-11	<p>A Hearing on Final Plat #02-21 to be known as Stonebridge by Exemplar, Inc. Money Purchase Pension Plan located along the west side of 36<sup>th</sup> Avenue SE and south of College View Road.</p> <p>Wishing to be heard was Josh Johnson, McGhie &amp; Betts, representing the applicant. He noted agreement with the seven conditions.</p> <p>Wishing to be heard was Sandy Carlan, 404 36<sup>th</sup> Avenue S.E. Ms. Carlan asked if the 36<sup>th</sup> Avenue was to be widened as new culverts were being placed along the street.</p> <p>Richard Freese, Public Works Director, stated that the road was not to be widened except for left turn lanes on the road.</p> <p>Councilmembers Means moved, McConnell seconded, to adopt Resolution No. 536-03 approving Final Plat #02-21 to be known as Stonebridge by Exemplar, Inc. Money Purchase Pension Plan with seven conditions. Ayes (6), Nays (0). Motion carried.</p>
E-12	<p>A Hearing on Final Plat #02-28 by Denny Peterson to be known as Pine Ridge Estates Fifth Subdivision on property located east and north of Ponderosa Drive SW.</p> <p>Wishing to be heard was Jeffrey Noll, 1539 Monterey Lane S.W. Mr. Noll asked that the Council not approve the final plat at this time until problems with the Fourth Subdivision are addressed. He said that one of the problems is the lack of water pressure in the Fourth Subdivision. Almost all of the homes have had to install a pressure pump in their basements to maintain the pressure. He asked how the construction of the Fifth Subdivision would affect the current problem. Mr. Noll's second concern was that there was only one access point for the subdivision; that being Ponderosa Drive. It was his understanding that another access point of Ponderosa Drive would be on the opposite side of the subdivision. Ponderosa Drive is currently approximately one mile in length with many small children living in the homes. When would the second access point be done. The third item he addressed was that Ponderosa Drive is not surfaced. For one half of the drive, the manhole covers protrude making it difficult to avoid the covers, water and oncoming traffic. There are two corner lots. Sidewalks are in the rest of the subdivision except for the corner lots. With the sidewalks not complete, it is impossible to maneuver the sidewalks. There are only a few streetlights working. There is a lack of covenants. There is also major drainage concerns from the hillside from runoffs. There are large culverts in the backyards which pose potential dangers to small children.</p>

Agenda  
Item

President Hunziker said that covenants are between the owners in the neighborhood and the City has no part in their enforcement.

Richard Freese, Public Works Director, said that Mr. Noll will be given a name to contact at Rochester Public Utilities to assist with the water pressure problem. Brent Svenby, Planning Department, said that when the Fourth Subdivision came before the Council for final plat in June 2000 there was a comment from the Water Division that, due to the low pressure, the pipes should be sized to 1 ½ inch to minimize pressure losses.

Richard Freese then noted that condition #5 requires no building permits to be issued for the plat until the secondary access is constructed. There could be an extension of Woodcrest Lane and also the 14<sup>th</sup> Avenue connection to Bamberwood which could also be acceptable alternatives for the secondary access. Mr. Freese addressed the condition of the street lights. He said that policy provides that 25 percent of the lots are built upon prior to the street lights are being activated. He will check to make sure that the contractor notified the lighting department.

Doug Nelson, Public Works Department, stated that the sidewalks and the manhole covers are issues revolving around the city/owner contract. He noted that the Public Works Department will try to get the problems resolved but that there is a non-payment issue between the contractor and the developer at the present time.

Wishing to be heard was Dale Allen, Yaggy-Colby Associates, representing the developer. He said that Yaggy-Colby inspectors, project engineer will work with city staff to try to resolve the issues in the Fourth Subdivision. He noted agreement with the conditions for the Fifth Subdivision.

Wishing to be heard was Andrew Tauferner, 2259 Ponderosa Drive SW. Mr. Tauferner told the Council that he was in agreement with the letter received from Mr. Steven Johnson and the testimony of Jeffrey Noll pointing out problems with the 4<sup>th</sup> Subdivision and asked the Council not to proceed until these problems had been rectified.

Councilmembers Marcoux moved, McConnell seconded, to continue to November 3, 2003, the Final Plat #02-28 by Denny Peterson to be known as Pine Ridge Estates Fifth Subdivision. Ayes (6), Nays (0). Motion carried.

E-13

A Hearing on Final Plat #03-07 to be known as Stonehedge Estates Second Subdivision by Stonehedge Land Development LLC located north of East Circle Drive, east of the Northwoods Hills Second Subdivision.

Wishing to be heard was Dale Allen, Yaggy-Colby Associates, representing the applicant. He noted agreement with the eight conditions.

Having no one further wishing to be heard, President Hunziker closed the hearing.

Councilmembers Hanson moved, Marcoux seconded, to adopt Resolution No. 537-03 approving Final Plat #03-07 to be known as Stonehedge Estates Second

Agenda Item																											
E-14	<p>Subdivision by Stonehedge Land Development LLC with eight conditions. Ayes (6), Nays (0). Motion carried.</p> <p>A Hearing on the Appropriations for 2004 Requests for Community Development Block Grant Program.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Hanson moved, Marcoux seconded, to approve the 2004 CDBG appropriations as listed below. Ayes (6), Nays (0). Motion carried.</p> <p><u>Public Service Requests</u></p> <table> <tr> <td>Aldrich Memorial Nursery</td><td>\$2,600</td></tr> <tr> <td>Channel One, Inc.</td><td>\$4,600</td></tr> <tr> <td>Child Care Resources &amp; Referral</td><td>\$20,400</td></tr> <tr> <td>Senior Citizens Services, Inc.</td><td>\$56,500</td></tr> </table> <p><u>Barrier Removal/Rehab/Acquisition/Public Facilities</u></p> <table> <tr> <td>Hiawatha Homes Foundation</td><td>\$1,700</td></tr> <tr> <td>SEMCIL</td><td>\$25,100</td></tr> <tr> <td>Ability Building Center</td><td>\$39,100</td></tr> <tr> <td>Bear Creek Services Foundation</td><td>\$13,000</td></tr> <tr> <td>OCHRA (Flood Home Rehab)</td><td>\$44,300</td></tr> <tr> <td>Senior Citizens Services, Inc.</td><td>\$31,900</td></tr> <tr> <td>Zumbro Valley Mental Health Center, Inc.</td><td>\$36,400</td></tr> <tr> <td>City of Rochester Park &amp; Rec</td><td><u>\$48,600</u></td></tr> <tr> <td>Total</td><td>\$324,200</td></tr> </table>	Aldrich Memorial Nursery	\$2,600	Channel One, Inc.	\$4,600	Child Care Resources & Referral	\$20,400	Senior Citizens Services, Inc.	\$56,500	Hiawatha Homes Foundation	\$1,700	SEMCIL	\$25,100	Ability Building Center	\$39,100	Bear Creek Services Foundation	\$13,000	OCHRA (Flood Home Rehab)	\$44,300	Senior Citizens Services, Inc.	\$31,900	Zumbro Valley Mental Health Center, Inc.	\$36,400	City of Rochester Park & Rec	<u>\$48,600</u>	Total	\$324,200
Aldrich Memorial Nursery	\$2,600																										
Channel One, Inc.	\$4,600																										
Child Care Resources & Referral	\$20,400																										
Senior Citizens Services, Inc.	\$56,500																										
Hiawatha Homes Foundation	\$1,700																										
SEMCIL	\$25,100																										
Ability Building Center	\$39,100																										
Bear Creek Services Foundation	\$13,000																										
OCHRA (Flood Home Rehab)	\$44,300																										
Senior Citizens Services, Inc.	\$31,900																										
Zumbro Valley Mental Health Center, Inc.	\$36,400																										
City of Rochester Park & Rec	<u>\$48,600</u>																										
Total	\$324,200																										
F-1	<p>Councilmembers Hanson moved, Nowicki seconded, adopted Resolution No. 538-03 authorizing staff to continue to work with Allco Financial Corporation (Allco) in the evaluation and structuring of a possible lease/leaseback transaction for city wastewater and drinking water assets; and authorizing the Mayor and City Administrator, subject to City Attorney review and approval, to enter into a letter of agreement with Allco for purposes of evaluating the feasibility of such a lease/leaseback transaction. Discussion.</p> <p>Councilmember McConnell stated that he would be voting nay. He does not agree with the leasing of the city water service to benefit a private company for tax-loopole purposes.</p> <p>Wishing to be heard was Joe Mayer, 1432 20<sup>th</sup> Street N.W. Mr. Mayer said that the first he knew of the proposal was when he read it in the newspaper. He was concerned about tying up the City's water service for a 30-year period of time. He said that there are investors who, somehow, through tax loopholes are using their capital to get tax credits which most people can't get. Usually, when there is</p>																										

Agenda Item	
	<p>depreciation involved, you have to own something. He asked the Council to take time to understand thoroughly and inform the citizenry before we tie up our water system for 30 years.</p> <p>President Hunziker told Mr. Mayer that tonight is only a first step to take a look at the proposal that probably would extend over the next nine months. There is no cost to the City to study the proposal.</p> <p>Wishing to be heard was Michael Swatick, 2420 30<sup>th</sup> Avenue N.W. He said that the Council has not other opportunities to save the Country money than what it has before them tonight. He agreed with Joe Mayer's comments as this proposal is only a tax-shifting. Who is going to pay it? The proposal is a tax loophole.</p> <p>Mayor Brede noted that the League of Minnesota Cities has reviewed the proposal and have said that it is a legal option. The Cities of Duluth and Austin are considering the proposal as well. Tonight's action will allow for staff to receive more information and allow time for public input.</p> <p>Ayes (5), Nays (1). Motion carried. Councilmember McConnell voted nay.</p>
G-2a	<p>An Ordinance Rezoning Approximately 33.48 Acres of Property From the I Zoning District to the M-1 Zoning District, and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota, was given a first reading. (Zoning District Amendment #03-09 – west side of Highway 63, east of East River Road NE, north of 41<sup>st</sup> Street NE.)</p>
G-2b	<p>An Ordinance Creating and enacting Chapter 64O and Amending and Reenacting Section 60.327 of the Rochester Code of Ordinances, Relating to the Establishment of the Pebble Creek Special District, was given a first reading. (Special District #14)</p>
G-2c	<p>An Ordinance Rezoning Approximately .30 Acres of Property From the M-1 Zoning District to the R-1 Zoning District, and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota, was given a first reading.</p>
	<p>Councilmembers Marcoux moved, McConnell seconded, to suspend the rules and give the Ordinance a second reading. Ayes (6), Nays (0). Motion carried. The Ordinance was given a second reading. Councilmembers Marcoux moved, Hanson seconded, to adopt the Ordinance as read. Ayes (6), Nays (0). Motion carried. Zoning District Amendment #03-15 – south side of Whynaucht Court SE – 2904 Whynaucht Court SE)</p>
G-3a	<p>An Ordinance Annexing to the City of Rochester Approximately 35.97 Acres of Land Located in the Southwest Quarter of the Southwest Quarter of Section 7, Township 107 North, Range 14 West, Olmsted County, Minnesota, was given a second reading. Councilmembers Marcoux moved, Hanson seconded, to adopt the Ordinance as read. Ayes (6), Nays (0). Motion carried. (Annexation Petition #03-20 – North side of 55<sup>th</sup> Street NW, along the east side of 60<sup>th</sup> Avenue NW)</p>

Agenda Item	
G-3b	<p data-bbox="342 331 1445 510">An Ordinance Creating and Enacting Chapter 77A to the Rochester Code of Ordinances, Relating to the Establishment of a Storm Water Utility, was given a second reading. Councilmembers Hanson moved, McConnell seconded, to amend the Ordinance Creating and Enacting Chapter 77A consistent with pages 256 and 257 and as amended to be approved.</p> <p data-bbox="342 531 1445 604">Wishing to be heard was Conrad Schultz Fincke, 4102 Fifth Place N.W., objecting to the monthly rate.</p> <p data-bbox="342 636 1445 814">Wishing to be heard was Frank Borchardt, 1635 Ninth Avenue S.E. The public knows nothing about the income streams or possible expenditures. The Council needs to put more information out on the issue to the public. He asked the Council not to approve the second reading and approval of the Ordinance until there is more information to the public.</p> <p data-bbox="342 835 1445 877">Ayes (6), Nays (0). Motion carried.</p>
J-1	<p data-bbox="342 898 1445 982">Having no further business, Councilmembers Hanson moved, McConnell seconded, to adjourn the meeting. Ayes (6), Nays (0). Motion carried.</p>

  
\_\_\_\_\_  
City Clerk

RECORD OF OFFICIAL PROCEEDINGS OF THE COMMON COUNCIL  
CITY OF ROCHESTER, MINNESOTA

---

6904

Agenda Item	